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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/471,869	12/23/1999	JEFFREY PHILLIPS	E0295/7130-(	8044

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RICHARD F GIUNTA  
WOLF GREENFIELD & SACKS PC  
FEDERAL RESERVE PLAZA  
600 ATLANTIC AVENUE  
BOSTON, MA 022102211

EXAMINER

NGUYEN, CAM LINH T

ART UNIT	PAPER NUMBER
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2171

DATE MAILED: 01/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/471,869

Applicant(s)

PHILLIPS ET AL.

Examiner

Cam-Linh T. Nguyen

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 December 2002.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-56 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-56 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \*   c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 – 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ofek et al (U.S. 6,397,308) in view of Kobayashi et al (U.S. 6,148,415)

◇ As per claim 1, 7, 26, 37,

Ofek discloses a method for different backup and restoration of data in a computer storage system that comprises:

- "One user interface" See Col 18 line 36 – 38, Fig. 27, col. 35 line 26 – 30 of Ofek.
- "Plurality of backup storage systems including at least first and second backup storage systems" See col. 9 line 10 – 15; Col. 10 line 6 – 12. Ofek teaches that plurality of backup media are provided; but does not explicitly place them in separate systems
- It is well known to use a plurality of backup machines, as evidenced by Kobayashi who teaches that a single machine is uneconomical (Col. 1 line 36 – 38). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to include a plurality of backup system that including at least first and second backup storage systems as suggesting by Kobayashi, into the system as shown by Ofek, because a plurality of backup

systems provides and economic availability of the system or information to the processing (Col. 1 line 35 – 45 of Kobayashi).

◇ As per claim 2 - 4, 8 – 10, 20 – 21, 24 – 25, 27 – 29, 31 – 36, 38 – 39, 43, 52

- With the teaching as in claim 1, it is obvious to include a third backup system as claimed in claim 2.
- Ofek discloses a plurality of host domain and storage domain in Fig. 8, where some host domain is connected to a particular storage node (Col. 14 line 38 – 44 of Ofek). This domain may include host computers, primary storage node, and second storage node (may include other storage node as taught in claim 1), each storage node includes an interface as discussed before. And the data is transmitted from the storage system of client to the backup system (See Col 6 line 30 – 32 of Ofek).
- Ofek also discloses a storage management component to control the configuration of the backup, tracking the location of data in the storage system (Col. 17 line 48 – 53 of Ofek). In addition, in col. 5 line 22 – 24, a location is selected depending on the desired level of security of data. Therefore, it prevents the unauthorized access or receives information related to backup activities from other backup system.
- The system of Ofek also includes means for identifying a set of storage elements (See col. 10 line 57 – 61). Therefore, if the system that includes second or third backup storages, it must store the identifiers to identifying a corresponding backup system.

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◇ As per claim 5 – 6, 30, 48,

- “Each one of the first and second backup storage system includes a controller”

See Fig. 11B element 118, col. 19 line 15 – 20, Fig. 27 element 271g of Ofek.

- “Each controller transmits the information relating to the backup activities only within the at least one domain” See Col. 17 line 31 – 36 of Ofek.

◇ As per claim 11,

- “Determining if a user of the at least one user interface is authorized to access information” this limitation is determined when a user access to storage device (See col. 7 line 62 – 63 of Ofek), or depending on data level as discussed in col. 5 line 22 – 24. The user must have to put on Id or password to determine the access level of data.
- By using a display and keyboard or other I/O devices, user can select data to read or write or review or backup data (See col. 8 line 58 – 63 of Ofek).
- The backup storage system received the command from user interface then it will select data in appropriate tape drive that located in a specific storage location and transmit back to user by the station (Fig. 27 element 271g col. 35 line 26 – 30) located within the backup system.

◇ As per claim 12 – 19, 22 – 23, 40 – 42, 44 – 47, 49 – 51,

All these claims are rejected using the method as discussed above, further include:

- “A path that is not dedicated to transporting information” See Fig. 8 where host computers are connected directly or indirectly with storages or backup system by different type of network (Col. 14 line 25 – 28).

♦ As per claim 53 – 56,

Claims 53 – 57 are rejected based on the discussion above, further include:

- “Providing only status of a most recent backup” See col. 16 line 58 – 59 of Ofek.

Where the subset of element are the data that changed during the operation.

### ***Response to Arguments***

1. Applicant's arguments filed 12/16/2002 have been fully considered but they are not persuasive.

♦ As per claim 1- 6,

Applicant argues that both Ofek and Kobayashi fail to disclose at least one user interface. However, referring to col. 35 line 26 – 30, Ofek discloses a control station 271g which includes a screen and keyboard for local operation. This control station controls the operation of data mover 271 a, b, e, and f, which connect primary storage, secondary storage, and the tape library storage (see Col. 35 line 31 – 44 of Ofek). Clearly, Ofek discloses a user interface that is able to receive information related to backup activity.

Applicant argues that Kobayashi does not discuss a user interface. Examiner does not use Kobayashi as a reference to teach the user interface. Instead, the Kobayashi reference is used to evidence that it was well known to use different backup machines in order to get plurality of backup storages in a backup process between computers.

♦ As per claim 7 – 11,

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Applicant argues that both Ofek and Kobayashi fail to disclose at least one user interface. However, as the discussion above illustrates, Ofek discloses a user interface and therefore the combination of Ofek and Kobayashi disclose at least one user interface.

♦ As per claim 12 – 16,

Applicant argues that both Ofek and Kobayashi fail to disclose at least one user interface. However, referring to col. 35 line 26 – 30 of Ofek, Ofek discloses a control station 271g, which includes a screen and keyboard for local operation. This control station controls the operation of data mover 271 a, b, e, and f, which connect primary storage, secondary storage, and the tape library storage (See Col. 35 line 31 – 44). Clearly, Ofek discloses a user interface that is able to receive information related to backup activity. The control station must received information about the backup process or information about a path to transport the data between primary storage and the tape, in order to mount appropriate tape in the tape library.

Applicant argues that Kobayashi does not discuss a user interface. However, the Examiner does not use the Kobayashi reference to teach the user interface. Instead, the Kobayashi reference is used to evidence that it was well known to use different backup machines in order to get plurality of backup storages in a backup process between computers.

♦ As per claim 17 – 56,

Applicant repeats the same argument as in claim 1 and 12, and the responses for those arguments are already discussed above.

***Conclusion***

2. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cam-Linh T. Nguyen whose telephone number is 703-305- 1951. The examiner can normally be reached on Monday - Friday from 8:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic, can be reached on (703) 308- 1436. The fax phone number for the organization where this application or proceeding is assigned is 703- 746- 7239.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703- 305- 3900.



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Cam-Linh Nguyen  
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LN



**SAFET METJAHIC**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2100**